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Montana
Office of Public Instruction
Denise Juneau, State Superintendent

Office of Public Instruction
P.O. Box 202501
Helena, MT, 59620-2501
(406) 444-3095
(888) 231-9393
(406) 444-0169 (TTY)
opi.mt.gov

March 10, 2015

[Complainants]

[Superintendent]

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| THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION |
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RE: **FINAL REPORT for** In the Matter of ** 2015-01, Alleged Violations of the Individuals With Disabilities Education Act (IDEA) and Montana special education laws.

This is the Final Report pertaining to the above-referenced state special education complaint (Complaint) filed pursuant to the Administrative Rules of Montana (ARM) 10.16.3662. *** (Complainants) filed the Complaint on behalf of their child, ** (Student), a student in *** School District (District). Complainants allege the District violated the Individuals with Disabilities Education Improvement Act (IDEA), 20 U.S.C. §1400 et seq., Montana special education laws, Title 20, Ch. 7, Montana Code Annotated (MCA), and corresponding regulations at 34 CFR Part 300 and ARM 10.16.3007 et seq. by allegedly:

- (1) failing to provide Complainants with timely access to Student's educational records;
- (2) failing to create a behavioral intervention plan for Student;
- (3) unilaterally changing Student's placement;
- (4) denying Student a free appropriate public education (FAPE) because Student's IEPs were not reasonably calculated to provide educational benefit; and
- (5) denying Student FAPE by failing to comparably implement Student's out-of-state IEP dated October 3, 2012.

A. Procedural History

1. On January 9, 2015 the Montana Office of Public Instruction (OPI) received the new special education Complaint signed by the Complainants.
2. On January 22, 2015 the Office of Public Instruction's Early Assistance Program (EAP) concluded the matters alleged in the Complaint are not able to be resolved through the EAP at this time and sent a Request for Written Response to the District. The Complaint proceeded to investigation.
3. The District requested an extension in time to respond and an extension was granted until February 10, 2015. The OPI received the District's written Response to the Complaint on February 10, 2015. The Complainants received a copy of the District's Response on February 16, 2015.
4. An appointed investigator conducted interviews with: the Complainants, the district superintendent, school principal, the director of the special education cooperative, Student's case

manager, Student's speech pathologist, Student's second and third grade teachers, and a paraprofessional who worked with Student in Student's current, third grade school year.

B. Legal Framework

The OPI is authorized to address alleged violations, which occurred within one year prior of the date of a complaint, of the IDEA and Montana special education laws through this special education state complaint process as outlined in 34 CFR §§ 300.151-153 and ARM 10.16.3662. Pursuant to 34 CFR §§ 300.151-153 and ARM 10.16.3662, all relevant information is reviewed and an independent determination must be made as to whether a violation of federal or state statute, regulation or rule occurred.

C. Findings of Fact

1. Complainants have standing to file this Complaint under the Montana special education complaint process pursuant to ARM 10.16.3661.
2. Complainant enrolled Student in the District in August of 2013. Student transferred from out-of-state and was assigned to the second grade. Student's out-of-state IEP was dated October 3, 2012.
3. An IEP meeting was held for Student on September 26, 2013. At this time the District proposed an IEP but the parents disagreed with the proposed IEP and did not sign their consent.
4. Student was then evaluated by the District and an Evaluation Report meeting took place on December 19, 2013. Student was found eligible for special education and related services under the categories of autism and speech/language impairment.
5. On January 7, 2014 the Complainants gave the District a letter requesting Student not be pulled out of the general education environment to receive services and requesting an IEP meeting.
6. The Student's mother/Complainant attended school with Student from approximately January 8, 2014 to approximately April 2014.
7. The IEP team met on January 27, 2014, February 10, 2014, February 18, 2014 and March 18, 2014. The Complainants signed the IEP proposed at the March 18, 2014 meeting on April 1, 2014 with exceptions. The exceptions included not wanting student pulled out for math and wanting clarification of how adult support will be provided to meet Student's needs.¹
8. The IEP team met again on April 16, 2014 to address the exceptions and the Complainants signed this IEP on April 20, 2014.²
9. On May 12, 2014 the parents/Complainants gave the district two letters, first requesting Student temporarily not be pulled out or receive speech services in the classroom, and the second revising the request to ask that Student's speech services be moved to "consult only" and for an IEP meeting to make the necessary changes.³ The District advised the parents they are not able to pull one service

¹ Parents also requested a new IEP case manager.

² There was some confusion about appropriately entering the proposed and final versions of this IEP into the automated AIM (Achievement in Montana) electronic system, resulting in errors in the content of the final IEP.

³ The Complainants sent OPI a separate letter complaining of an alleged incident of unprofessional conduct by Student's speech therapist. The OPI notified the Complainants that OPI does not have authority to address a school district's personnel issues through the state complaint procedure, and that the OPI also does not have authority to address parents' allegations of violations of privacy. The OPI recommended that the school district administrators be contacted for guidance regarding the district's policy and procedure for complaints against individual staff and/or privacy violations.

from the IEP, but that all services are part of the FAPE Student was receiving as detailed in Student's comprehensive IEP.

10. The IEP team met again on May 29, 2014 and moved Student's speech services to consult services "...although the school personnel and parents do agree that the appropriate speech/language services are direct services." It was also added to the Supplementary Aids and Services section that Student will have adult supervision throughout the school day. The IEP meeting continued on June 4, 2014.

The parents did not sign the amended IEP at this time.

11. The IEP team met on September 11, 2014 and the parents signed another draft of the IEP on October 13, 2014. The IEP team held an informational meeting on November 19, 2014 but no changes were made to the IEP.

12. On December 23, 2014 a meeting was held with the principal, Student's case manager, and mother/Complainant. During this impromptu meeting, the mother's visitation at the school and other topics were discussed. As a result of this meeting, Student's mother immediately withdrew her child from the District that same day.

13. During the time in question, the District developed four progress reports. The progress report dated January 9, 2014 had only two areas listed: reading and speech/language. Neither area was assessed. These goals match up with the proposed IEP dated September 26, 2014, which was not signed by the Complainants. This progress report was not given to the Complainants.

14. A second progress report dated the next day, January 10, 2014 included reading, which was assessed and marked "met goal." It also included speech and language which was not assessed. These goals matches up with the unsigned, proposed IEP dated September 26, 2014. This progress report was not given to the Complainants.

15. A progress report dated February 3, 2014 indicated Student's reading goal was the same as on the January 9 and 10, 2014 progress reports, but it is marked "expected to meet goal." The areas of social/emotional/behavioral and speech/language were not assessed. These goals match up with the IEP signed April 1, 2014, with the exception the math goal which was not listed. This progress report was not given to the Complainants.

16. A progress report dated November 6, 2014 indicated Student was expected to met her math, reading, social/emotional/behavioral and speech/language goals. These goals match up with the IEP signed on October 13, 2014. This was the only progress report the parents received. The date the parents received it is unknown. The case manager did not know the District's protocol for getting progress reports to parents.

D. Analyses and Conclusions

Issue 1: Did the District err by allegedly failing to provide Complainants with timely access to Student's educational records?

Complainants allege the District did not allow them timely access to Student's educational records. Complainant's mother alleges she verbally asked the District for a copy of Student's educational records on December 23, 2014 during the impromptu meeting held in the principal's office. The principal and case manager do not recall Complainant specifically asking for access to Student's records during the meeting.

The district must permit parents to inspect and review any education records that are collected and maintained by the agency and must comply with a request “without unnecessary delay and before any meeting regarding an IEP...and in no case more than 45 days after the request has been made.” 34 § CFR 300.613(a). The District would have had until February 6, 2015 to provide Complainants access to Student’s educational records. However, Student was withdrawn from the District on December 23, 2014 and enrolled in another school on January 6, 2015. Her special education records were transferred to her new school as part of the transfer process. Transfer of records to another school is set out in § 20-1-213(1), MCA:

Subject to the provisions of ... the Individuals With Disabilities Education Act, 20 U.S.C. 1411 through 1420, and its implementing regulations at 34 CFR, part 300, local educational agencies and accredited schools shall adopt a policy that a certified copy of the permanent file, as defined by the board of public education, and the file containing special education records of a student will be forwarded by mail or electronically to a local educational agency or accredited school in which the student seeks or intends to enroll within 5 working days after a receipt of a written or electronic request.

Nothing in § 20-1-213 restricts the District from allowing the parents to access the Student’s special education records. Nevertheless, in this case, the District transferred the records to Student’s new district of residence and did not then have the ability to follow up and comply with the Complainant’s request. Notwithstanding the District’s policy and procedures for access to records, the District did not provide Complainants access to Student’s educational records within 45 days after the alleged request had been made as required by the IDEA 34 CFR § 300.613(a), but the Complainants did receive the requested educational records as part of the state complaint process and therefore **this issue has been resolved.**

Issue 2: Did the District err by failing to create a behavioral intervention plan for Student?

The Complainants allege the District did not properly address Student’s behavioral needs because “[n]o behavioral intervention plan set or brought up until [Complainant] went to school every day and was approached by the PE teacher about a behavioral concern she had with [Student].” Complainants allege the District did not do anything in response to the PE teacher’s “Request for Information.” The Complainant’s reliance on the “Request for Information” dated December 3, 2013 is improper. Although outside of the timeframe of this Complaint, this document was not a teacher’s request for help, but was requested by the evaluation team to gain more knowledge about the child during the evaluation. Further Student’s out-of-state IEP noted “[t]he student does not exhibit behavior that requires a behavior intervention plan.”

On the IEPs signed April 1, 2014, April 20, 2014 and October 13, 2014 it is indicated Student’s behavior impedes the learning of herself or others. Checking this box does not require a behavioral intervention plan. Specifically, 34 CFR § 324(a)(2)(i) states the IEP team must “[I]n the case of a child whose behavior impedes the child’s learning or that of others, consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior.” On the IEP signed April 1, 2014 there is a social, emotional and behavioral goal. On the IEPs signed April 20, 2014 and October 13, 2014, in addition to the social/emotional/behavioral goal, under the Supplementary Aides and Services section, the IEP indicates “[b]ehavioral strategies will be utilized for increasing on-task behavior, independence and task completion.” It appears several of the accommodations listed on the IEPs were used as behavioral strategies to assist Student.

The District was not required to set up a behavioral intervention plan for Student. **Therefore, the District was not in violation of 34 CFR § 324(a)(2)(i).**

Issue 3: Did the District err by unilaterally changing Student's placement?

Complainants allege Student's placement was unilaterally changed by the District because they were pulling Student out of the classroom to work with her prior to January 7, 2014. On January 7, 2014 the parents wrote a letter requesting the District stop pulling Student out of the classroom. The OPI is authorized to address alleged violations which occurred within one year prior of the date of a complaint. ARM § 10.16.3662(2)(a). The OPI received Complainant's Complaint on January 9, 2015. This allegation falls outside of the timeframe for the Complaint as the alleged violation would have taken place from August 2013 to January 7, 2014. Therefore, this allegation is not addressed in this Final Report.

Issue 4: Did the District err by allegedly denying Student a free appropriate public education (FAPE) because Student's IEPs were not reasonably calculated to provide educational benefit?

Complainants allege Student's IEPs were not reasonably calculated to provide Student with educational benefit. FAPE means special education and related services that:

- (a) Are provided at public expense, under public supervision and direction, and without charge;
- (b) Meet the standards of the state educational agency;
- (c) Include an appropriate preschool, elementary school, or secondary school education in the State involved; and
- (d) Are provided in conformity with an individualized education program (IEP).

34 CFR §300.17. The proper standard to determine whether a student with a disability has received FAPE is the "educational benefit" standard. *J.L v. Mercer Island School Dist.*, 592 F.3d 938,951 (9th Cir. 2010). The district must confer at least "some educational benefit" on students with disabilities. *Id.* This standard is referred to as "a basic floor opportunity" not a "potentially maximizing education." *Id* at 947 citing *Board of Education of the Hendrick Hudson Central School District v. Rowley*, 458 U.S. 176, 197 (1982).

Being able to measure progress is integral in determining whether a student has received educational benefit. The IDEA requires the IEP include measurable annual goals including academic and functional goals that will meet the needs of that student that result from the disability and allow them to progress in the general curriculum and meet the students other educational needs that result from the disability. 34 CFR § 300.320(a)(2). The IEP also has to include how the student's progress towards the annual goals will be measured and when periodic reports on progress will be provided. 34 CFR § 300.320(a)(3). During the investigation the District was asked several times to show how they were evaluating Student's progress, and to provide copies of the data they had used in order to determine progress on each of Student's goals for the relevant IEPs that were purportedly implemented during the relevant time frame of this state complaint, January 9 2014 to December 23, 2014. Each of the IEPs will be addressed individually.

Out-of-state IEP dated October 3, 2012. No Progress reports were given on these goals. _

Communication: There were four communication goals. The speech language pathologist indicated she worked on these goals, but no specific data regarding the goals was provided.

Reading: The case manager indicated this goal was too easy for Student, and they did not work on this goal. Student's classroom grades and some works samples were provided, but no specific data on the reading goal was provided.

Math: Student's classroom grades were provided, but no specific data on the math goal was provided.

Writing: The District did not demonstrate how this goal was assessed. No specific data was provided.

Physical: The District did not demonstrate how this goal was assessed. No specific data was provided.

IEP signed April 1 and amended April 20, 2014.⁴ No progress reports were provided on these goals:

Math: Student's classroom grades were provided. No specific data on Student's math goal was provided.

Reading: Student's classroom grades were provided along with some work samples. No specific data on Student's reading goal was provided.

Social/emotional/behavioral: The District did not demonstrate how this goal was assessed. No specific data was provided.

Speech/Language: The District did not demonstrate how this goal was assessed. No specific data was provided.

IEP signed October 13, 2014. One progress report dated November 6, 2014 was provided on this IEP. The progress report indicated Student was expected to meet all goals.

Math: Some samples of Student's classroom work were provided. The goal was that Student would score 80% on classroom assignments. However, it is noted in the present levels that Student needs close adult help or her scores drop to below satisfactory.⁵

Reading: A few work samples were provided. No particular data on Student's reading goal was provided.

Social/emotional/behavioral: The District did not demonstrate how this goal was assessed. No specific data was provided.

Speech/Language: The speech language pathologist provided a few notes from her observations from September to December 22, 2014. There are a couple data collection entries on the speech language pathologist notes.

The District's frustration regarding the many IEP meetings and drafts/amendments of IEPs and confusion as to what IEP was implemented when and trying to concede all of the Complainant's requests is also taken into consideration. The Complainants had additional concerns about the Student being pulled out of class to receive services and services with particular staff members. On January 7, 2014, the parents submitted a letter to the District stating they did not want Student pulled out of class for any services. The school immediately began to honor this request even through the IEP team did not determine that was what Student needed for FAPE and the out-of-state IEP allowed for Student to be pulled out for speech services. Then again, on May 12, 2014 the parents wrote another letter stating they did not want Student to receive any speech services. The District advised the parents they couldn't reject one service from the IEP, but that all services were part of FAPE for the Student. The Complainants revised their request to keep speech services, but moved them to consult only. The

⁴ This IEP was signed with exceptions including not wanting student pulled out for math and wanting clarification of how adult support will be provided to meet Student's needs. These exceptions were addressed an amended IEP was signed on April 20, 2014. Because the goals were not amended, these two IEPs will be addressed together.

⁵ Although not alleged in the Complaint, it is noted this goal is vague and although measurable, it does not work on Student's specific needs. Student's progress on classroom work was already being tracked by the District as part of the general education teacher's curriculum, and with prompting Student did well.

District immediately honored the Complainants' request without consensus of the IEP team.⁶ Parents are an integral part of the IEP team and the IDEA contemplates a parent's active participation in the IEP process. See 34 CFR § 300.32(a)(1) and 34 CFR §300.501(b). Parental participation and input play a key role in the IEP process. *Amanda J. v. Clark Cnty. Sch. Dist.*, 267 F.3d 877, 890-891 (9th Cir. 2001). However, the IDEA does not require schools to "...simply accede to parents' demands without considering any suitable alternatives." *Blackman v. Springfield*, 198 F.3d 648, 657 (8th Cir. 1999). Doing so completely ignores the role of the IEP team in determining the needs of the Student.

Student only attended school in the District for approximately 1.5 school years. During that time developing a new IEP was a continual work in progress and there were several drafts/amendments that made tracking progress more difficult. There was confusion regarding which IEPs were being implemented when. Further, the Complainants refused to sign many proposed versions of an IEP, and did not consent to the continuation of some services which were in the out-of-state IEP. However, parents' lack of consent and the confusion caused by the process to reach consensus on an IEP did not alleviate the District of their responsibility to track Student's progress on the educational goals. In attempting to accommodate the parents, the District abdicated its legal responsibility to provide FAPE for Student.

Complainants received only one progress report dated November 6, 2014 and the investigation did not reveal any data or other evidence that the District was adequately tracking Student's progress on Student's IEP goals⁷. The District failed to track Student's progress or lack of progress on her IEP goals through testing, teacher observation or other means. By failing to track progress on these goals, the District **could not demonstrate that some educational benefit was provided to Student. Student was therefore denied FAPE in violation of 34 CFR § 300.17.**

Issue 5: Did the District err by failing to comparably implement Student's out-of-state IEP dated October 3, 2012?

An IEP must be in effect for each child at the beginning of the school year. 34 CFR § 300.323(a). Student transferred from out-of-state into the District at the beginning of the 2013-2014 school year. The District decided at this point to comparably implement the out-of-state IEP dated October 3, 2012. An IEP meeting was held for the Student on September 26, 2013. At this time the District proposed an IEP but the parents disagreed with the proposed IEP and did not sign consent. The student was then reevaluated and the IEP team met on January 27, 2014, February 10, 2014, February 18, 2014, and March 18, 2014. The parents did not consent to a new IEP until April 1, 2014.

Parental consent of the annual IEP must be obtained by the parent. ARM 10.16.3505. If the parents and District cannot agree on the IEP but can agree on certain IEP services or interim placement, the student's new IEP would be implemented in the areas of agreement and the student's last agreed-upon IEP would remain in effect in the areas of disagreement until the disagreement is resolved. ARM 10.16.3505(2)(b). If the district is unable to obtain consent after informally attempting to obtain consent or resolve the disagreement and believes the proposed annual placement

⁶It is clear this is not what the District and parent agreed was appropriate because the IEP team notes from May 29, 2014 state "...although the school personnel and parents do agree that the appropriate speech/language services are direct services." This IEP was not signed until October 13, 2014. The parents had concerns with the speech and language pathologist providing services and did not want that person working with Student.

⁷ The District did provide Student's MAP scores from the fall 2013 to the fall 2014. The MAP data indicates some periods of regression and some periods of progress. However, the MAP data is not indicative of Student's progress on individual IEP goals.

is necessary to ensure a free and appropriate public education, the district shall file a request for a due process hearing or take other action necessary to ensure refusal to consent does not deny the student a free and appropriate public education. ARM 10.16.3505(d). The District did not file a due process hearing in this case, accordingly the out-of-state IEP should have been implemented from the beginning of the 2013-2014 school year to April 1, 2014.⁸

The definition of FAPE specifically references the provision of special education and related services as provided in conformity with an IEP. 34 CFR § 300.17. The IDEA allows a party to challenge an IEP based on procedural flaws in IEP formulation as well as substantive grounds based on a denial of FAPE. *Van Dyun v. Baker School District*, 481 F.3d 770, 779 (9th Cir. 2007). “This language indicates that a failure to implement an IEP may deny a child a free and appropriate public education and thereby give rise to a claim under the statute. The language also counsels against making minor implementation failures actionable given that ‘special education and related services’ need only be provided ‘in conformity with the IEP.’ There is no statutory requirement for perfect adherence to the IEP, nor any reason rooted in the statutory text to view minor implementation failures as denials of a free and appropriate public education.” *Id.* The Ninth Circuit in *Van Dyun*, adopted the materiality standard for failure to implement an IEP. “A material failure occurs when the services a school provides to a disabled child fall significantly short of the services required by the child’s IEP.” *Id.* at 780. Under the materiality standard the student does not have to suffer demonstrable educational harm in order to prevail. *Id.*

Goals

The Complainants allege the District did not implement the eight goals identified in the out-of-state IEP under the areas of communication, reading, writing, math and physical. The investigation did not reveal any data or other evidence that the goals were worked on as set out in Issue 4 above. There appeared to be confusion by District staff working with Student as to what IEPs were being implemented, and the lack of data or other evidence makes it difficult to know exactly what was done. No progress reports were provided to the Complainants on these goals.⁹ The Complainants provided the District with a letter on January 7, 2014 requesting the District stop pulling student out of the general education classroom to receive services.

At this time the mother began attending school with the Student. Student’s teacher welcomed the mother in the classroom and Student’s mother attended school with the child until April 2014. Student was not pulled out of class to receive any services after the January 7, 2014 letter. This appears to have caused some confusion regarding how the District would work with Student’s on the IEP goals. Nonetheless, the Complainants did not revoke consent for special education services. The out-of-state IEP should have still been implemented. The District alleges some goals in the out-of-state IEP were too easy for Student and claimed that the District worked on goals more commensurate with Student’s progress level, and that the parents agreed to this in the IEP meetings. The parents’ verbal consent is not sufficient.

⁸ The procedural compliance of the transfer of the student into the District is not something covered by the one year timeframe of this state complaint. The OPI is authorized to address alleged violations which occurred within one year prior of the date of a complaint, therefore we are looking at the alleged lack of implementation of the out-of-state IEP from January 9, 2014 to April 1, 2014.

⁹ The District alleges these progress reports were never given to the parents because they were on IEPs that had not yet been implemented. The progress reports can be automatically generated from an IEP entered into the AIM system. However for instances like these where the IEP is not in the system, there is a way to scan and upload a progress report created by the case manager as a word document. The District did not do this.

IEP meetings were held on January 27, 2014, February 10, 2014, February 18, 2014 and March 18, 2014. If the Complainants agreed to specific goals and services in the IEP meeting, the District could have asked the parents to sign the IEP with exceptions, thereby updating some goals. Not implementing any of the eight goals on the out-of-state IEP was a material implementation failure.

Other Special Education or Related Services

Speech and Language: The out-of-state IEP allowed for 45 minutes a week for speech and language services. The Student's speech and language pathologist reports providing speech/language services but there are no data or other evidence to show implementation of the communication goals. Working on the communication goals was more difficult in the classroom setting versus the small group setting according to the speech and language pathologist, but there is no evidence of what was worked on or how many sessions the Student was provided.

Occupational Therapy: Student's out-of-state IEP provided for 30 minutes of occupational therapy. Student has never received any occupational therapy services with the District.

Social Emotional Skills Development: The Student's out-of-state IEP also provided for social/emotional skills development (with a mental health provider) for 30 minutes a week (outside the classroom). The services were to assist Student in learning to identify and deal with her emotions. Complainants allege this was minimally discussed at some point with the school counselor but that services were never implemented. The District alleges they did not provide these services because the parents did not want the Student pulled out of the classroom and there was not a specific social emotional behavioral goal on the out-of-state IEP. Social emotional development services were never provided and the District did not determine how to comparably implement this service area.

Specialized Instruction: Student's out-of-state IEP provided for 150 minutes per week with a learning specialist or educational assistant (inside the classroom). The District states this is not a service typically provided in Montana and this service was not provided to Student.

Overall, the special education and related services on the out-of-state IEP were not comparably implemented. Student received some speech and language speech and language, but the amount of services received is uncertain. The amount of related services and special services implemented was significantly short of the services set out in the out-of-state IEP and was therefore a material failure in implementing that IEP.

Accommodations: The Complainants allege Student was not provided the accommodations listed in her out-of-state IEP. Accommodations are provided as necessary to advance toward meeting goals, progress in the general curriculum, and to allow children with disabilities to be educated with children without disabilities. 34 CFR § 300.320(4). There is not a requirement under the IDEA or Montana law to track how often accommodations were being used with Student. However, the investigation did reveal Student's second grade class used a daily visual schedule with all of the Students and Student had her own visual schedule on her desk. The teacher did prepare for transitions with the whole class as part of their daily routine. She would give the class a two minute warning as a prompt, signaling time was almost up, and signal with her harmonica (instead of a timer) when time was up. The investigation also found Student was allowed sensory breaks and would go out to the playground to hang on the monkey bars or do a job for the teacher. The teacher would also break down problems for Student and instructions. It appears many of the accommodations listed on the out-of-state IEP were implemented. No material failure was found regarding the implementation of Student's accommodations.

Although the District did implement Student's accommodations, the District failed to implement numerous goals and special education or related services on the out-of-state IEP from January 9, 2014 to April 1, 2014. These failures to implement were material failures and denied Student FAPE. In addition, the District did not have authority to implement any goals on the proposed IEPs without

resolving the issues with the Complainants or filing for due process hearing. Until that time, the out-of-state IEP should have been comparably implemented until April 1, 2014. Therefore, the District is in violation of 34 CFR § 300.17 by failing to provide Student FAPE.

E. Disposition

The District is ORDERED to take the following actions:

1. The District owes compensatory services to Student sufficient to compensate for the failure to provide FAPE from January 9, 2014 through December 23, 2014. Because Student has moved to a new, nearby district, Student's new district's IEP team must determine any necessary compensatory educational services necessary to compensate for the lack of services received by the District, including but not limited to occupational therapy (OT), social/emotional counseling and specialized learning instruction. The District must consult with Student's new district to ensure adequate resources and financial commitment for additional costs incurred by Student's new district for the provision of any compensatory educational services deemed necessary and provided as a result of this decision. The deadline for arrangement and completion of compensatory services deemed necessary and agreed to by the Complainants is **March 10, 2016**. Compliance shall be provided to OPI School Improvement/Compliance Unit Manager.
2. The District shall submit a training curriculum and provide training by an OPI-approved trainer or OPI staff on the topics of:
 - a. districts' legal responsibility for FAPE;
 - b. implementation of transfer student's IEPs;
 - c. tracking and reporting progress;
 - d. meaningful data gathering and data retention practices; and
 - e. AIM document management.

Training shall be provided to all special education personnel and administrators. Verification of completion of the training and attendance shall be provided to OPI School Improvement/Compliance Unit Manager by **September 15, 2015**.

3. The District shall promptly review its policies and practices with regard to data collection and retention when tracking educational progress to ensure compliance with this Final Report. By **May 25, 2015** the District shall inform the OPI School Improvement/Compliance Unit Manager of any proposed changes or modifications for approval.

Ann Gilkey
OPI Compliance Officer

c: Mandi Gibbs, Dispute Resolution/EAP Director
Frank Podobnik, State Special Education Director
Dale Kimmet, School Improvement/Compliance Unit Manager
Megan Morris, Kaleva Law Office